

OP-21.08, "Contracted Labor Crews," July 1, 2004

SCDC POLICY/PROCEDURE

NUMBER:OP-21.08

TITLE:CONTRACTED LABOR CREWS

ISSUE DATE: JULY 1, 2004

RESPONSIBLE AUTHORITY:DIVISION OF CLASSIFICATION AND INMATE RECORDS

OPERATIONS MANUAL:OPERATIONS

SUPERSEDES: OP-21.08 (May 1, 2003)

RELEVANT SCDC FORMS/SUPPLIES: 19-125, 27-66, 27-67, 27-68

ACA/CAC STANDARDS: 4-ACRS-7D-02, 4-ACRS-2A-11, 3-4018, 3-4181

STATE/FEDERAL STATUTES: Sections 24-3-130, 24-3-131, and 24-13-660, South Carolina Code of Laws, 1976, as amended

PURPOSE: To provide guidelines for the management and supervision of contracted inmate labor crews.

POLICY STATEMENT: To promote fiscal responsibility, the Agency will contract with other governmental agencies for the use of inmate labor crews to perform work on highway and other public improvement or development projects. To promote the safety and security of the general public, only non-violent minimum security inmates will be assigned to any South Carolina Department of Corrections inmate labor crew. The use of such inmate labor will be in accordance with all applicable SCDC policies/procedures, state and federal statutes, and OSHA (Occupational Safety and Health Administration) rules and regulations.

SPECIFIC PROCEDURES:

1. Contracted labor crews will be used to provide a cost-effective minimum security inmate labor force to governmental contracting agencies. The use of such labor will be on highway and other public improvement or development projects.
2. The Division Director of Classification and Inmate Records will be responsible for the establishment and administration of labor crew contracts with local governmental entities.
3. The Division Director of Classification and Inmate Records or designee will monitor and evaluate labor crew functions through institutional on-site visits, audits, activity reports, and development of statistics and

data. Institutional on-site audits will be conducted at least annually to ensure that contracted labor crew procedures are properly administered. A report will be generated and any deficiencies will be reported to the institution for necessary corrective action. Copies will be forwarded to the Division Director of Classification and Compliance. (4-ACRS-7D-02, 3-4018)

4.LABOR CREW CONTRACTS:

4.1 Pursuant to South Carolina Code of Laws, Section 24-3-130, 1976, as amended, the SCDC may enter into contracts to establish the use of inmate labor. Labor crews/inmate labor force furnished to various agencies may be provided under the terms of labor crew contracts and will be administered by the Division Director of Classification and Inmate Records or designee.

4.2 Labor crew contracts will be awarded to state agencies, counties, municipalities, public educational facilities (e.g., county school districts), and public service districts in order to provide a cost effective inmate labor force for public improvement projects.

4.3 Requests from outside agencies for contracted or temporary inmate labor will be forwarded to the Division Director of Classification and Inmate Records or designee.

4.4 The Division Director of Classification and Inmate Records or designee will evaluate feasibility, will coordinate with the affected institution, and will prepare and approve all labor crew contracts. If the labor request is disapproved, a full explanation will be provided to the requesting agency. If the labor request is approved, the following will apply:

4.4.1 Standard labor crew contracts or subsequent revisions will be provided to the appropriate institution or to the requesting agency, as necessary. Contracting agency approval and signatures may be obtained at this time.

4.4.2 Contracts will be returned to the Division Director of Classification and Inmate Records or designee for processing and approval through the Division Director of Classification and Compliance; the Office of Budget and Resource Management; and the Office of General Counsel. Once these offices have recommended approval, the contract will be forwarded to the Agency Director for approval and signature.

4.4.3 Upon signature of the Agency Director, the Division Director of Classification and Inmate Records or designee will send the original contract to the involved agency for signature, if not previously signed.

4.4.4 Upon execution, the original contract will be filed with the Office of General Counsel. A copy of the contract will be maintained by the Division Director of Classification and Inmate Records or designee, a copy will be forwarded to the respective institution(s), and a copy will be forwarded to the contracting agency, as appropriate.

4.5. The contracting agency will be billed by the SCDC commensurate with payment conditions of the respective contract for actual days worked by each labor crew inmate. The Warden or designee will be responsible for completing SCDC Form 27-66, "Labor Crew Reporting," and submitting it to the Division Director of Classification and Inmate Records or designee for processing. The Division Director of Classification and Inmate Records will supply billing information to the Financial Accounting Branch.

4.6 The basic provisions, as listed below, of all inmate labor contracts will be consistent with those previously established through the Office of General Counsel. Any additional provisions negotiated by the contracting agency, the Warden or designee of the institution, and the Division Director of Classification and Inmate Records or designee must receive prior approval from the Office of General Counsel.

4.6.1 The SCDC will provide the contracting agency with an appropriate number of able-bodied inmates to be utilized as a labor force during specified working hours of each week. No guarantee will be made relative to the number of inmates a contracting agency will receive each work day; however, the respective institution(s) will make every effort to provide the number of inmates requested.

4.6.2 The direction of the work performed will be under the control and supervision of the person designated by the contracting agency. The contracting agency will provide sufficient personnel to adequately supervise the labor crew inmates pursuant to Sections 24-3-131 and 24-13-660, South Carolina Code of Laws, 1976, as amended.

4.6.3 The contracting agency will ensure that the inmates will not be working under hazardous conditions or in activities that would be in violation of the OSHA regulations, SCDC directives, and/or current state and federal laws.

4.6.4 The contracting agency will provide all necessary safety equipment items, will give safety and training orientation to assigned inmates with respect to specialized equipment, and will provide direct supervision of inmates using such equipment. The contracting agency will be responsible for ensuring that inmates utilize the safety equipment issued.

4.6.5 The contracting agency will be required to abide by all applicable OSHA and DHEC regulations and will ensure that inmate labor crews will not be assigned to an employment activity that may result in occupational exposure to Bloodborne Pathogens. However, should the duties of the work performed constitute occupational exposure, it will be the contracting agency's responsibility to ensure that standard precautions are taken.

4.6.6 The formal orientation, as developed by the Division Director of Classification and Inmate Records or designee, relative to the rules and regulations governing inmates on contracted labor crews will be provided by the respective institutional officials to a representative(s) of the contracting agency. This orientation will be documented on SCDC Form 27-68, "Certificate of Outside Labor Crew Supervisor Orientation and Education," and will be dated and signed by both parties indicating understanding and agreement to abide by the rules and regulations. All employees of the contracting agency who will directly or indirectly supervise

inmates will receive orientation, education, and information prior to actual supervisory duties, and at least annually thereafter. Training will include the consequences for violation of the aforementioned rules/regulations, of SCDC policies/ procedures, and of South Carolina state laws that prohibit sexual misconduct.

4.6.7 The contracting agency will provide safe transportation in a governmental/agency vehicle for all labor crew inmates to and from the work site and as necessary throughout the day as stipulated in the terms of the contract. Each Warden or designee will ensure that transportation schedules are met by each labor crew inmate to provide the labor needed by the contracting agency. All pertinent information regarding the accountability of all inmates assigned to contracted labor crews will be maintained at the institution utilizing SCDC Form 19-125, "Outside Work Detail Sign Out/In Sheet." (4-ACRS-2A-11, 3-4181)

4.6.8 The contracting agency will be responsible for furnishing necessary immediate medical care that may be required as a result of injury or illness to an inmate while working as a member of the labor crew. The contracting agency will be responsible for any initial medical costs incurred by said inmate until such a time that supervisory control is assumed by SCDC staff and/or the inmate is returned to an SCDC institution. However, should it be determined that the contracting agency's conduct was the proximate cause of the injury, the contracting agency will be solely responsible for all medical care costs. The contracting agency will be responsible for immediately advising the Warden or designee of any hospitalization and/or medical treatment. The Warden or designee will be responsible for ensuring that the automated SCDC Form 16-61, "Employers First Report of Injury or Illness," is completed and submitted to the Workers Compensation section and that a copy is placed on the inmates institutional record and central record.

4.6.9 The contracting agency will not loan, trade, or permit inmates to perform work for other public entities, private enterprises, or private citizens, to include employees of contracting agencies.

4.6.10 The contracting agency will not permit the inmate labor force to enter any business establishment or private dwelling, receive visitors, use telephones, and/or have access to or operate motor vehicles, excluding specialized equipment.

4.6.11 Other requirements as specified by the labor contract, labor crew rules and regulations, and state and federal laws will apply.

4.7 Serious incidents, allegations of misconduct, allegations of contract non-compliance, etc., will be reviewed/investigated and documented by the Warden or designee, the Division Director of Investigations or designee (when appropriate), and/or the contracting agency, as follows:

4.7.1 The Warden or designee may suspend the inmate labor provided to a contracting agency pending the outcome of the review/investigation.

4.7.2 Upon completion of all reviews/investigations, the Warden will discuss the outcome with the Division Director of Classification and Inmate Records or designee. Labor may be resumed or terminated depending

on the seriousness of the incident, misconduct, non-compliance, etc., and any actions taken by the contracting agency to remedy or correct the situation.

4.7.3 The Warden may request that the labor crew contract be terminated. All such requests and appropriate documentation will be submitted through the Division of Operations, to the Division Director of Classification and Inmate Records and will be thoroughly investigated. Recommendations from the Division Director of Classification and Inmate Records will be submitted through the Division Director of Classification and Compliance to the SCDC Director for final disposition.

4.8 Labor crew contracts will not be required for periodic and/or temporary labor crews/inmate labor force when supervised by correctional staff. Nevertheless, any such crews should report their activity and productivity as do the contract crews (e.g., # inmates working, hours worked, etc.) on SCDC Form 27-66, "Labor Crew Reporting."

5. CONTRACTED LABOR CREW ASSIGNMENT:

5.1 Contracted labor crew assignments will be made in accordance with the Agency's Classification Plan. (See SCDC Policy/Procedure OP-21.04, "SCDC Inmate Classification Plan," for more information.) Additionally, only statutory non-violent offenders with no prior history of violent convictions may be assigned to contracted labor crews.

5.2 Every effort will be made by the Warden or designee, in conjunction with the contracting agency(ies), to place an inmate on a contracted labor crew commensurate with his/her physical and mental ability. Every effort will also be made to assign inmates with specialized skills to an area where that skill can be utilized to the fullest. However, if such assignments are not available or approved, the inmate will accept placement in the contracted labor crew assignment given.

5.3 Contracted inmate labor crew orientation will be documented on SCDC Form 27-67, "Certificate of Outside Labor Crew Orientation." The inmate will be required to sign this form indicating that s/he has been informed of and agrees to abide by all labor crew program rules and regulations. A copy of the completed SCDC Form 27-67 will be filed in the inmate's institutional record and a copy will be filed in the Central Record. A copy of the labor crew rules and regulations will be posted in a conspicuous location accessible to all inmates.

5.4 Assignment of inmates to contracted labor crews/inmate labor force at the Governor's Mansion and the Department of Public Safety will be the responsibility of State Classification and the institution of assignment pursuant to directives issued by the Agency Director.

6. REPORTING:

6.1 On a daily basis, the Warden or designee of institutions that provide a litter crew detail(s) will ensure that the LITTER screen in the Offender Management System is updated with accurate and appropriate data.

6.2 The Warden or designee of each institution will be responsible for submitting to the Division Director of Classification and Inmate Records or designee a completed SCDC Form 27-66, "Labor Crew Reporting," by the 5th working day of the month for all labor crews (to include temporary and/or periodic crews). This form will list the total number of inmates provided to each contracting agency's labor crew per day and the total number of days worked by labor crew inmates for the preceding month. This information will then be processed by the Division Director of Classification and Inmate Records or designee and submitted to the Office of Budget and Resource Management or designee for billing purposes, as appropriate.

6.3 The Warden will be responsible for conducting contracted labor crew job site visits. All visits will be documented in the institution's appropriate contracting agency's file. Should a problem exist, corrective action will be taken, as appropriate, and documentation of the same will be forwarded to the Division Director of Classification and Inmate Records or designee. Reports of serious incidents will also be documented. Each report will be retained on file at the institution, and a copy will be forwarded to the Division Director of Classification and Inmate Records or designee for necessary action, if appropriate. (See also Procedure 4.7.1- 4.7.3, above.)

7. OTHER REPORTING REQUIREMENTS: The Warden or designee of each institution that provides SCDC work details to other areas within the SCDC (off the grounds/confines of the institution such as construction, Headquarters' details, SCDC Training Academy details, etc.) will be responsible for submitting to the Division Director of Classification and Inmate Records or designee a completed SCDC Form 27-66 by the 5th working day of the current month for all SCDC work details. This form will indicate the number of inmates assigned to the specific details as of the 15th of the previous month. Should the 15th fall on a weekend or holiday, the number of inmates assigned on the following work day will be reported.

DEFINITIONS:

Contracting Agency refers to the agency that has entered into the formal agreement with the South Carolina Department of Corrections for the use of inmate labor. This agency must be a governmental entity (state agency, county, municipality, public educational facility, or public service district).

Contracted Labor Crew/Inmate Labor Force refers to the inmate labor crew(s) that is provided under the labor crew contract.

Labor Crew Contract refers to the formal agreement between the contracting agency and the South Carolina Department of Corrections to provide for the use of inmate labor.

Minimum Security Inmates refers to the inmates assigned to "Minimum Out Custody" in accordance with the SCDC's Classification Plan. (See SCDC Policy/Procedure OP-21.04, "SCDC Inmate Classification Plan.")

Outside Labor Crew Supervisor refers to the contracting agency employee responsible for the transportation and/or supervision of the inmate labor force.

Periodic or Temporary Labor Crew refers to inmate labor that is provided with or without a labor crew contract and with or without Correctional Officer supervision. If a labor crew contract is executed, Correctional Officer supervision may not be necessary.

SCDC Work Detail refers to an inmate crew that is supervised by Agency employees and which works for SCDC and on SCDC grounds but not on the grounds of the institution of assignment.

Supervisor Orientation refers to the training and/or education that is provided to the Labor Crew Supervisor(s) regarding outside labor crew rules and regulations.

SIGNATURE ON FILE

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Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.